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CLERK OF U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 RS

12 Yu LIU,

13 Plaintiff,

14 vs.

15 Department of Homeland Security, Michael  
16 Chertoff, Secretary; US Attorney General,  
17 Michael B. Mukasey; United States  
18 Citizenship and Immigration Services,  
19 Emilio T. Gonzalez, Director; United States  
20 Citizenship and Immigration Services,  
21 Alfonso Aguilar, Chief; United States  
22 Citizenship and Immigration Services,  
23 Francis D. Siciliano, Field Office Director,  
24 and Robert Mueller, III, Director of Federal  
25 Bureau of Investigation

Defendants.

Civil No.

CV 07

6017

PETITION FOR HEARING ON  
NATURALIZATION APPLICATION  
PURSUANT TO 8 USC SECTION 1447(b)

USCIS Case No.: A47 604 810

Plaintiff, by her attorney, complaining of Defendants, alleges as follows:

1. Plaintiff is an individual and resident of the United States who resides in the jurisdiction of this Court. Plaintiff's claim to naturalization arises under 8 United States Code (hereinafter "USC") Section 1421.

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2. Defendant Michael Chertoff is the Secretary of the Department of Homeland Security (hereinafter "DHS"). Defendant Michael B. Mukasey is the Attorney General of the United States. Defendant Emilio T. Gonzalez is the Director of the United States Citizenship and Immigration Services (hereinafter "USCIS"). Defendant Alfonso Aguilar is the Chief of the Office of Citizenship in USCIS. Defendant Francis D. Siciliano is the Field Office Director of the San Jose USCIS field office. Defendant Robert S. Mueller, III, is Director of the Federal Bureau of Investigations (FBI), the law enforcement agency that conducts security clearances for other U.S. government agencies, such as the Department of Homeland Security. All Defendants are sued herein in their official capacities. Defendants are responsible for the grant or denial of naturalization applications filed with the San Jose USCIS pursuant to 8 USC Sections 1421, 1427 and 8 Code of Federal Regulations (hereinafter "CFR") Sections 2.1, 103.1(b), 310.2, 316.3.
3. The Court has jurisdiction of this action pursuant to 8 USC Sections 1447(b) and 2201.
4. On or about October 26, 2005, Plaintiff filed her application for naturalization with USCIS.
5. On or about March 21, 2006, Defendants and their designated agent examined Plaintiff on her application at the San Jose field office of USCIS.
6. At her examination, Defendants' agent told Plaintiff that she passed her examination. She was told that her case could not be approved at that time because the required background checks had not yet been completed.
7. On December 11, 2006, Plaintiff checked on the status of her case by making an InfoPass appointment at USCIS. She was told that it was still pending due to background checks.

- 1 8. On August 21, 2007, Plaintiff submitted a FOIA request to the FBI. In a letter dated,  
2 September 10, 2007, the FBI informed Plaintiff that there were no records found  
3 pertaining to her.
- 4 9. Plaintiff inquired with Senator Feinstein's office about her background check. In a  
5 letter dated October 12, 2007, Senator Feinstein's office confirmed that Plaintiff's  
6 background check was still pending.
- 7 10. Plaintiff understands the necessity of a background check but she was examined more  
8 than nine months ago and Defendants have made no decision on her application.  
9 Defendants have been unable to provide any estimate as to when they will adjudicate  
10 her application and they allege that they cannot adjudicate it until the background  
11 checks have been completed. It is Plaintiff's position that nine months is more than a  
12 reasonable amount of time in which to conduct background checks in her case.
- 13 11. Plaintiff does not have a criminal record anywhere in the world. There is no reason that  
14 Plaintiff can discern as to why her case has been unduly delayed.
- 15 12. Plaintiff has been severely prejudiced by the lack of adjudication in her case. She would  
16 like the right to vote in the next election and would like the ease of travel available with  
17 a U.S. Passport. She cannot do either now.
- 18 13. The Defendants' failure to make a determination of Plaintiff's application within 120  
19 days after her examination allows Plaintiff to bring the matter to this Court for a hearing  
20 pursuant to 8 USC Section 1447(b).
- 21 14. Plaintiff desires a judicial determination of his naturalization application and a  
22 declaration that she is entitled to be naturalized as a citizen of the United States.

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1 WHEREFORE, Plaintiff prays that:

- 2 1. The Court will hear Plaintiff's case and render a declaratory judgment that she is entitled  
3 to be naturalized;
- 4 2. The Court award Plaintiff reasonable attorney's fees under the Equal Access to Justice  
5 Act; and
- 6 3. The Court grants such further relief as may be just, lawful and equitable to the premises.

7 Dated this 26<sup>th</sup> day of November, 2007

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